

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

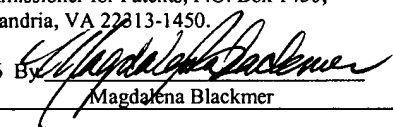
In re Application of)	Group Art Unit: Not Yet Assigned
)	
PATERNOSTER, et al.)	Examiner: Not Yet Assigned
)	
Application No.: 10/511,421)	
)	INFORMATION DISCLOSURE
International Filing Date: October 28, 2002)	STATEMENT
Priority Date: October 26, 2001)	
)	
For: USE OF THERMOREGULATORY)	
MATERIAL TO IMPROVE EXERCISE)	
PERFORMANCE)	

Mail Stop Amendment
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that the correspondence enclosed herein is being deposited as first class mail with the United States Postal Service on this date January 24, 2006, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: January 24, 2006 By


 Magdalena Blackmer

Dear Sir:

Applicant submits herewith patents, publications or other information (attached hereto and listed on the attached Form PTO-1449) of which he is aware, pursuant to his duty to disclose in accordance with 37 C.F.R. § 1.56.

This Information Disclosure Statement, as far as is known to the undersigned, is filed before the mailing date of the first Office Action on the merits.

A list of the patent(s) or publication(s) is set forth on the attached Form PTO-1449 (Modified). A copy of each of the items listed on form PTO-1449 is supplied herewith. However, despite an exhaustive search over the past 6 months, copies of the following two references could not be located:

1. "Mack et al. (1996)" cited in Kentrou, Panagiota N., Mike Chivers, and Greig Inglis, *Thermoregulatory Effects of DriWater During Exercise in the Heat*, Faculty of Applied Health Sciences, Brock University (2001), Paragraph 4; and
2. "Klentrou, P., W. Montelpare, and B. Faught, *Exercise Physiology: Laboratory Manual*, Brock University, Department of Applied Health Sciences (2000)" cited in Inglis, J. Greig, Mike Doucet, and Panagiota Klentrou, *DriWater Report*, Brock

University, Department of Physical Education and Kinesiology, Faculty of Applied Health Sciences (2002).

A concise explanation of relevance of the items listed on PTO-1449 is not given. The Examiner is reminded that a "concise explanation of the relevance" of the submitted prior art "may be nothing more than identification of the particular figure or paragraph of the patent or publication which has some relation to the claimed invention," MPEP § 609.

While the information and references disclosed in this Information Disclosure Statement may be "material" pursuant to 37 C.F.R. § 1.56, it is not intended to constitute an admission that any patent, publication or other information referred to therein is "prior art" for this invention unless specifically designated as such.

In accordance with 37 C.F.R. § 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 C.F.R. § 1.56(a) exists. Furthermore, pursuant to 37 C.F.R. § 1.97(h), the filing of this Information Disclosure Statement shall not be construed to be an admission that the information cited in this statement is, or is considered to be, material to patentability, as defined in 1.56(b). It is submitted that the Information Disclosure Statement is in compliance with 37 C.F.R. § 1.98 and MPEP § 609 and the Examiner is respectfully requested to consider the listed references.


The Commissioner is hereby authorized to charge any additional fees or credit overpayment to our Deposit Account No. 04-0822.

Respectfully submitted,

DERGOSITS & NOAH LLP

Dated: January 24, 2006

By:


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FORM PTO-1449 (Rev. 7-80)		U.S. Dept. of Commerce Patent and Trademark Office		Atty. Docket No. 298.41		Appl. No. 10/511,421	
LIST OF REFERENCES CITED BY APPLICANT				Applicant: PATERNOSTER, ET AL.			
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U.S. PATENT DOCUMENTS							
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	A0	2001	Kentrou, Panagiota, Chivers, Mike Chivers, and Greig Inglis. Thermoregulatory effects of DriWater during exercise in the heat. Faculty of Applied Health Sciences, Brock University.				
	A1	1998	Sawka, Michael N., W. A. Latzka, R. P. Matott, and S. J. Montain. Hydration effects on temperature regulation. <i>Int J Sports Med</i> , 19: S 108 - S 110.				
	A2	1999	McLellan, Thomas M., Greg A. Gannon, Jiri Zamecnik, Valerie Gil, and Greg M. Brown. Low doses of melatonin and diurnal effects on thermoregulation and tolerance to uncompensable heat stress. <i>J Appl Physiol</i> , 87: 308 - 316.				
	A3	1985	Carter, Barbara J. and Margarethe Cammermeyer. Emergence of real casualties during simulated chemical warfare training under high heat conditions. <i>Military Medicine</i> , vol. 150, 12:657.				
	A4	1991	Kraning II, Kenneth K. and Richard R. Gonzalez. Physiological consequences of intermittent exercise during compensable and uncompensable heat stress. <i>J Appl Physiol</i> , 71: 2138-2145.				
	A5	1993	McLellan, Thomas M. Work performance at 40°C with Canadian forces biological and chemical protective clothing. <i>Aviat Space Environ Med</i> , 1094 - 1100.				
	A6	1994	Montain, Scott J., Michael N. Sawka, Bruce S. Cadarette, Mark D. Quigley, and James M. McKay. Physiological tolerance to uncompensable heat stress: effects of exercise intensity, protective clothing, and climate. <i>Thermal Physiology and Medicine Division, US Army Research Institute of Environmental Medicine</i> , 216 - 222.				
	A7	1999	Sawka, Michael N., and Edward F. Coyle. Influence of body water and blood volume on thermoregulation and exercise performance in the heat. <i>Exerc Sport Sci Rev</i> , 2:167- 205.				
	A9	1996	Sawka, Michael N., Andrew J. Young, Paul B. Rock, Timothy P. Lyons, Robert Boushel, Beau J. Freund, stepehn R. Muza, Allen Cymerman, Richard C. Dennis, Kent B. Pandolf, and C. Robert Valeri. Altitude acclimatization and blood volume: effects of exogenous erythrocyte volume expansion. <i>J Appl Physiol</i> , 636 - 642.				
	A10	1992	Sawka, Michael N., Andrew J. Young, William A. Latzka, P. Darrell Neuffer, Mark D. Quigley, and Kent B. Pandolf. Human tolerance to heat strain during exercise: influence of hydration. <i>J Appl Physiol</i> , 73: 368 - 375.				
	A11	1993	Noakes, Timothy David. Fluid replacement during exercise. <i>Exerc Sport Sci Rev</i> , 21:297 - 330.				
	A12	1998	Cheung, Stephen S., and Tom M. McLellan. Heat acclimation, aerobic fitness, and hydration effects on tolerance during uncompensable heat stress. <i>J Appl Physiol</i> 84:1731 -1739.				
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	B0	2002	Inglis, J. Greig, Mike Doucet, and Panagiota Klentrou. DriWater Report. Brock University, Department of Physical Education and Kinesiology, Faculty of Applied Health Sciences. Pages 1 – 25.				
	B1	1997	Armstrong, Lawrence E., Carl M. Maresch, Catherine V. Gabaree, Jay R. Hoffman, Stavros A. Kavouras, Robert W. Kenefick, John W. Castellani, and Lynn E. Ahlquist. Thermal and circulatory responses during exercise: effects of hypohydration, dehydration, and water intake. <i>J Appl Physiol</i> , 82: 2028 – 2035.				
	B2	1999	Cochrane, Darryl J., Gordon G. Sleivert. Do changes of heat and humidity influence thermoregulation and endurance performance? <i>J Sci Med Sport</i> , 2:322 – 332				
	B3	1999	Crandall, C. G., B. D. Levine, and R. A. Etzel. Effect of increasing central venous pressure during passive heating on skin blood flow. <i>J Appl Physiol</i> , 86: 605 - 610.				
	B4	1974	Dill D.B., and Costill D.L. Calculation of percentage changes in volumes of blood, plasma, and red cells in dehydration. <i>J Appl Physiol</i> , 37: 247 – 248.				
	B5	1997	Gonzalez-Alonso, Jose, Ricardo Mora-Rodriguez, Paul R. Below, and Edward F. Coyle. Dehydration markedly impairs cardiovascular function in hyperthermic endurance athletes during exercise. <i>J Appl Physiol</i> , 82:1229-1236				
	B6	2000	Gonzalez-Alonso, Jose, Ricardo Mora-Rodriguez, and Edward F. Coyle. Stroke volume during exercise: interaction of environment and hydration. <i>Am. J Physiol Heart Circ. Physiol</i> , 278:H321 - H330.				
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	B8	1999	Gonzalez-Alonso, Jose, Christina Teller, Signe L. Anderson, Frank B. Jensen, Tino Hyldig, and Bodil Nielson. Influence of body temperature on the development of fatigue during prolonged exercise in the heat. <i>J Appl Physiol</i> , 86:1032 - 1039.				
	B9	2001	Inglis J.G., Chivers M., Cunliffe M., Pyley M., and Klentrou P. Effect of DRIWATER® on thermoregulation during exercise in the heat. C.S.E.P. 2001 Annual Meeting, Montreal, Quebec, October 30 - November 3, 2001. <i>Can J Appl Physiol</i> , 26(5):486.				
	B10	1978	Jackson, A.S. & Pollock, M.L. Generalized equations for predicting body density in men. <i>Br J Nutr</i> , 40:497-504.				
	B11	1996	Johnson, John J., and Duane W. Proppe. Cardiovascular adjustments to heat stress. In: <i>Handbook of Physiology Environmental Physiology</i> , <i>Am J. Physiol</i> , sect. 4, vol 1, pt II, chapt. 11, p. 215-243.				
	B12	2000	Klentrou, P., Montelpare, W., and Faught, B., <i>Exercise Physiology: Laboratory Manual</i> . Brock University, Department of Applied Health Sciences.				
	B13	1991	Kraning, Kenneth K., and Richard R. Gonzalez. Physiological consequences of intermittent exercise during compensable and uncompensable heat stress. <i>J Appl Physiol</i> , 71:2138 - 2145.				
	B14	1998	Latzka, William A., Michael N. Sawka, Scott J. Montain, Gary S. Skrinar, Roger A. Fielding, Ralph P. Matott, and Kent B. Pandolf. Hyperhydration: tolerance and cardiovascular effects during uncompensable exercise-heat stress. <i>J Appl Physiol</i> , 84:1858 – 1864.				
	B15	1997	Latzka, William A., Michael N. Sawka, Scott J. Montain, Gary S. Skrinar, Roger A. Fielding, Ralph P. Matott, and Kent B. Pandolf. Hyperhydration: thermoregulatory effects during compensable exercise-heat stress. <i>J Appl Physiol</i> , 83: 860 – 866.				
	B16	1973	Lind, A. Prediction of safe limits for prolonged occupational exposure to heat. <i>Federation Proc</i> 32:1602-1606.				
	B17	1998	Maughan, R. J. and S. M. Shirreffs. Dehydration, re-hydration and exercise in the heat; concluding remarks. <i>J Sports Med</i> , 19:S167 - S168.				
	B18	1999	McLellan, Thomas M., Greg A. Gannon, Jiri Zamecnik, Valerie Gil, and Greg M. Brown. Low doses of melatonin and diurnal effects on thermoregulation and tolerance to uncompensable heat stress. <i>J Appl Physiol</i> , 87:308 – 316.				
	B19	1992	Montain, Scott J., and Edward F. Coyle. Fluid ingestion during exercise increases skin blood flow independent of increases in blood volume. <i>J Appl Physiol</i> , 73:903 - 910.				
	B20	1998	Morimoto, Taketoshi, Toshiyuki Itoh, and Akira Takamata. Thermoregulation and body fluid in hot environment. <i>Progress in Brain Research</i> , 115:502 - 507.				
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	C1	1998	Cheung, Stephen S., and Tom M. McLellan. Heat acclimation, aerobic fitness, and hydration effects on tolerance during uncompensable heat stress. <i>J Appl Physiol</i> , 84:1731 - 1739.				
	C2	1998	Cheung, Stephen S., and Tom M. McLellan. Influence of short-term aerobic training and hydration status on tolerance during uncompensable heat stress. <i>Eur J Appl Physiol Occup Physiol</i> , 78:50 - 58.				
	C3	1998	Cheung, Stephen S., and Tom M. McLellan. Influence of hydration status and fluid replacement on heat tolerance while wearing NBC protective clothing. <i>Eur J Appl Physiol</i> , 77:139 - 148.				
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	C5	2000	Cheung, Stephen S., Tom M. McLellan, and Sandra Tenaglia. The thermophysiology of uncompensable heat stress; physiological manipulations and individual characteristics. Review Article, <i>Sports Med</i> , 29:329 - 359.				
	C6	1992	Coyle, Edward F., and Scott J. Montain. Benefits of fluid replacement with carbohydrate during exercise. <i>Med Sci Sports Exerc</i> , 24:S324 - S330.				
	C7	1968	Mack, Alan O., and Douglas N. Allan. Reconstruction of a severe case of attrition and abrasion. <i>Br Dent J</i> , 125:17 - 19.				
	C8	1974	Mack, D.O., Julia J. Watson, A. M. Chandler, and B. Connor Johnson. Induction of glucose-6-phosphate dehydrogenase by a 90% carbohydrate diet and 8-azaguanine insensitive induction of glucose-6-phosphate dehydrogenase following a transfer from the 90% carbohydrate diet to a 90% protein diet. <i>J Nutr</i> , 104:12 - 17.				
	C9	1994	Mack, Gary W., Cheryl A. Weseman, Gary W. Langhans, Herbert Scherzer, Christopher M. Gillen, and Ethan R. Nadel. Body fluid balance in dehydrated healthy older men: thirst and renal osmoregulation. <i>J Appl Physiol</i> , 76:1615 - 1623.				
	C10	1966	Mack, James F., Milo M. Webber, and Leslie R. Bennett. Brain scanning; normal anatomy with technetium-99m pertechnetate. <i>J Nucl Med</i> , 7:633 - 640.				
	C11	Post 1969	Mack, M. E. Stimulated thermal rayleigh scattering with picosecond pulses. <i>Ann N Y Acad Sci</i> , 168:419-436				
	C12	1967	Mack, Pauline Berry, and Paul L. LaChance. Effects of recumbency and space flight on bone density. <i>Am J Clin Nutr</i> , 20:1194 - 1205.				
	C13	1968	Mack, Pauline Berry, Rudolf A. Hoffman, and Aliya N. Al-Shawi. Physiologic and metabolic changes in macaca nemestrina on two types of diets during restraint and non-restraint: II. Bone density changes. <i>Aerosp Med</i> , 39:698 - 704.				
	C14	1969	Mack, R.D. Correspondence: Treatment of hyaline-membrane disease. <i>N Engl J Med</i> , 280:331.				
	C15	1965	Mack, R.E. Letter to Editor: Generalized reactions to thyrotropin. <i>JAMA</i> 191:346 - 347.				
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	C17	1966	Mack, Robert M., John R. Hartmann, and Lester R. Sauvage. Iliofemoral venous thrombectomy in a child with a coagulation abnormality. <i>J Pediatr</i> , 68:374 - 380.				
	C18	1966	Mack, William S. The assessment of male infertility. <i>Proc R Soc Med</i> , 59:770 - 772.				
	C19	1967	McLellan, G. H., and J.D. Billings. Suxamethonium sensitivity. <i>N Z Med J</i> , 66:159 - 162.				
	C20	1992	McLellan, Thomas M., P. Meunier, B. Eng, and S. Livingstone. Influence of a new vapor protective clothing layer on physical work tolerance times at 40°C. <i>Aviat Space Environ Med</i> , 63:107 - 103.				
	C21	1993	McLellan, Thomas M., S.S. Cheung, and M.R. Meunier. The effect of normobaric hypoxia and the duration of exposure to hypoxia on supramaximal exercise performance. <i>Eur J Appl Physiol Occup Physiol</i> , 66:409-414.				
	C22	1993	McLellan, Thomas M., I. Jacobs, and J.B. Bain. Continuous vs. intermittent work with Canadian forces NBC clothing. <i>Aviat Space Environ Med</i> , 64:595 - 598.				
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	C23	1993	McLellan, Thomas M. Work performance at 40°C with Canadian forces biological and chemical protective clothing. <i>Aviat Space Environ Med</i> , 64:1094 – 1100.				
	C24	1993	McLellan, Thomas M., I. Jacobs, and J. B. Bains. Influence of temperature and metabolic rate on work performance with Canadian forces NBC clothing. <i>Aviat Space Environ Med</i> , 64:587 – 594.				
	C25	1994	McLellan, Thomas M., and J. Frim. Heat strain in the Canadian forces chemical defence clothing: problems and solutions. <i>Can J Appl Physiol</i> , 19:379 – 399.				
	C26	1994	McLellan, Thomas M., D. G. Bell, and J.K. Dix. Heat strain with combat clothing worn over a chemical defense (cd) vapor protective layer. <i>Aviat Space Environ Med</i> , 65:757 – 763.				
	C27	1995	McLellan, Thomas M., S.S. Cheung, and I. Jacobs. Influence on ondansetron on thermoregulation during exercise in the heat wearing combat clothing. <i>Aviat Space Environ Med</i> , 65:35 – 40.				
	C28	1995	McLellan, Thomas M., S.S. Cheung, and I. Jacobs. Variability of time to exhaustion during submaximal exercise. <i>Can J Appl Physiol</i> , 20:39 – 51.				
	C29	1996	McLellan, Thomas M., and M.B. Ducharme. Influence on Granisetron on thermoregulation during exercise in the heat. <i>Aviat Space Environ Med</i> , 67:453 – 457.				
	C30	1996	McLellan, Thomas M. Heat strain while wearing the current Canadian or a new hot-weather French NBC protective clothing ensemble. <i>Aviat Space Environ Med</i> , 67:1057 – 1062.				
	C31	1996	McLellan, Thomas M., J.I. Pope, J.B. Cain, and S.S. Cheung. Effects of metabolic rate and ambient vapour pressure on heat strain in protective clothing. <i>Eur J Appl Physiol Occup Physiol</i> , 74:518 – 527.				
	C32	1996	McLellan, Thomas M., and Y. Aoyagi. Heat strain in protective clothing following hot-wet or hot-dry heat acclimation. <i>Can J Appl Physiol</i> , 21:90 – 108.				
	C33	1998	McLellan, Thomas M. Sex-related differences in thermoregulatory responses while wearing protective clothing. <i>Eur J Appl Physiol Occup Physiol</i> , 78:28 – 37.				
	C34	1999	McLellan, Thomas M., J. Frim, and D.G. Bell. Efficacy of air and liquid cooling during light and heavy exercise while wearing NBC clothing. <i>Aviat Space Environ Med</i> , 70:802 – 811.				
	C35	1999	McLellan, Thomas M., S.S. Cheung, W. A. Latzka, M. N. Sawka, K. B. Pandoff, C.E. Millard, and W. R. Withey. Effects of dehydration, hypohydration, and hyperhydration on tolerance during uncompensable heat stress. <i>Can J Appl Physiol</i> , 24:349 – 361.				
	C36	2000	McLellan, Thomas M., and S. S. Cheung. Impact of fluid replacement on heat storage while wearing protective clothing. <i>Ergonomics</i> , 43:2020 – 2030.				
	C37	1991	Montain, Scott J., Mari K Hopper, Andrew R. Coggan, and Edward F. Coyle. Exercise metabolism at different time intervals after a meal. <i>J Appl Physiol</i> , 70:882 – 888.				
	C38	1991	Montain, Scott J., and Edward F. Coyle. Influence of graded dehydration on hyperthermia and cardiovascular drift during exercise. <i>J Appl Physiol</i> , 78:1340 – 1350.				
	C39	1992	Montain, Scott J., and Edward F. Coyle. Fluid ingestion during exercise increases skin blood flow independent of increases in blood volume. <i>J Appl Physiol</i> , 78:903 – 910.				
	C40	1993	Montain, Scott J., and Edward F. Coyle. Influence of the timing of fluid ingestion on temperature regulation during exercise. <i>J Appl Physiol</i> , 75:688 – 695.				
	C41	1994	Montain, Scott J., Michael N. Sawka, Bruce S. Cadarette, Mark D. Quigley, and James M. McKay. Physiological tolerance to uncompensable heat stress: effects of exercise intensity, protective clothing, and climate. <i>J Appl Physiol</i> , 77: 216 – 222.				
	C42	1995	Montain, Scott J., William A. Latzka, and Michael N. Sawka. Control of thermoregulatory sweating is altered by hydration level and exercise intensity. <i>J Appl Physiol</i> , 79:1434 – 1439.				
	C43	1998	Montain, Scott J., M. N. Sawka, W. A. Latzka and C. R. Valeri. Thermal and cardiovascular strain from hypohydration influence of exercise intensity. <i>Int J Sports Med</i> , 19:87 – 91.				
	C44	1998	Montain, Scott J., Sinclair A. Smith, Palph P. Mattot, Gary P. Zientara, Ferene A. Jolesz and Michael N. Sawka. Hypohydration effects on skeletal muscle performance and metabolism: a 31P-MRS study. <i>J Appl Physiol</i> , 84:1889 – 1894.				
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	C45	1999	Montain, Scott J., William A. Latzka and Michael N. Sawka. Fluid replacement recommendations for training in hot weather. <i>Mil Med</i> , 164:502 – 508.				
	C46	2001	Montain, Scott J., Michael N. Sawka, and C. Bruce Wenger. Hyponatremia associated with exercise: risk factors and pathogenesis. <i>Exerc Sport Sci Rev</i> , 29:113 – 117.				
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	C48	1967	Noakes, P. William Robert Reyburn. <i>N A Dent J</i> , 63:305.				
	C49	1977	Noakes, Tim, Lionel Opie, and Walter Beck. Coronary heart disease in marathon runners. <i>Ann N Y Acad Sci</i> , 301:593 – 619.				
	C50	1973	Noakes, Timothy D. Exercise-induced heat injury in South Africa. <i>S Afr Med J</i> , 47:1968 – 1972.				
	C51	1974	Noakes, Timothy D. Letter: Exercises. <i>S Afr Med J</i> , 48:74.				
	C52	1976	Noakes, Timothy D. Exercise physiology. <i>S Afr Med J</i> , 50:59 – 60.				
	C53	1976	Noakes, Timothy D., and J.W. Carter. Biochemical parameters in athletes before and after having run 160 kilometres. <i>S Afr Med J</i> , 50:1562 – 1966.				
	C54	1976	Noakes, Timothy D., and L.H. Opie. The cardiovascular risks and benefits of exercise. <i>Practitioner</i> , 216:288 – 296.				
	C55	1997	Noakes, Timothy D. Letters to the Editors: Marathon running and immunity to coronary atherosclerosis. <i>Atherosclerosis</i> , 27:119 – 120.				
	C56	1979	Noakes, Timothy D. Prescribing exercise for the cardiac patient. <i>S Afr Med J</i> , 55:969 – 970.				
	C57	1979	Noakes, Timothy D., A.G. Rose, and L. H. Opie. Hypertrophic cardiomyopathy associated with sudden death during marathon racing. <i>Br Heart J</i> , 41:624 – 627.				
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